

Environmental Protection Agency

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of the refinery in compliance calculations for RFG or conventional gasoline for calendar years 2004 or 2005 under § 80.69 or § 80.101(d)(4) must include the volume and benzene concentration of this oxygenate in the benzene baseline calculation for that refinery under paragraph (a) of this section.

§ 80.1285 How does a refiner apply for a benzene baseline?

(a) A benzene baseline application must be submitted for each refinery that plans to generate early credits under § 80.1275. The application must include the information specified in paragraph (c) of this section and must be submitted to EPA at least 60 days before the first averaging period in which the refinery plans to generate early credits.

(b) For U.S. Postal delivery, the benzene baseline application shall be sent to: Attn: MSAT2 Benzene, Mail Stop 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. For commercial delivery: MSAT2 Benzene, 202-343-9038, U.S. Environmental Protection Agency, 1310 L Street, NW., Washington, DC 20005.

(c) The benzene baseline application must include the following information:

(1) A listing of the names and addresses of all refineries owned by the company.

(2) The benzene baseline for gasoline produced in 2004–2005 at the refinery, calculated in accordance with § 80.1280.

(3) Copies of the annual reports required under § 80.75 for RFG and § 80.105 for conventional gasoline.

(4) A letter signed by the president, chief operating officer, or chief executive officer, of the company, or his/her designee, stating that the information contained in the benzene baseline determination is true to the best of his/her knowledge.

(5) Name, address, phone number, facsimile number and e-mail address of a corporate contact person.

(d) For a refinery that may be eligible to generate early credits under § 80.1270(a)(2)(ii), a refiner may submit to EPA a benzene baseline application per the requirements of this section. The refiner must also submit informa-

tion regarding the nature and cause of the refinery's production activity that resulted in irregular or less than full production, how it affected the baseline benzene concentration, and whether and how an alternative calculation to the calculation specified in § 80.1280 produces a more representative benzene baseline value. Upon consideration of the submitted information, EPA may approve a benzene baseline for such a refinery.

(e) EPA will notify the refiner of approval of the refinery's benzene baseline or any deficiencies in the application. However, except for applications submitted in accordance with paragraph (d) of this section, the refinery's benzene baseline application may be considered approved 60 days after EPA's receipt of the baseline application, subject to paragraph (f) of this section.

(f) If at any time the baseline submitted in accordance with the requirements of this section is determined to be incorrect, EPA will notify the refiner of the corrected baseline.

§ 80.1290 How are standard benzene credits generated?

(a) The standard credit averaging periods are the calendar years beginning January 1, 2011, or beginning January 1, 2015 for small refiners approved under § 80.1340.

(b) [Reserved]

(c)(1) The number of standard benzene credits generated shall be calculated annually for each applicable averaging period according to the following equation:

$$SC_y = \left[\frac{0.62 - B_{avg,y}}{100} \right] \times V_y$$

Where:

SC_y = Standard credits generated in year y (gallons benzene).

$B_{avg,y}$ = Annual average benzene concentration for year y (volume percent benzene), per § 80.1238.

V_y = Total volume of gasoline produced or imported in year y (gallons).

(2) No credits shall be generated unless the value SC_y is positive.

(d) Standard benzene credits calculated in accordance with paragraph (c) of this section shall be expressed to

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the nearest gallon. Fractional values shall be rounded down if less than 0.50, and rounded up if greater than or equal to 0.50.

§ 80.1295 How are gasoline benzene credits used?

(a) *Credit use.* (1) Gasoline benzene credits may be used to comply with the gasoline benzene standard of § 80.1230(a) provided that—

(i) The gasoline benzene credits were generated according to §§ 80.1275 or 80.1290.

(ii) The recordkeeping requirements for gasoline benzene credits under § 80.1350 are met.

(iii) The gasoline benzene credits are correctly reported according to §§ 80.1352 and 80.1354.

(iv) The conditions of this section are met.

(2) Gasoline benzene credits generated under §§ 80.1275 and 80.1290 may be used interchangeably in all credit use scenarios, subject to the credit life provisions specified in paragraph (c) of this section.

(3) Gasoline benzene credits may be used by a refiner or importer to comply with the gasoline benzene content standard of § 80.1230(a), may be banked by a refiner or importer for future use or transfer, may be transferred to another refinery or importer within a company (intracompany trading), or may be transferred to another refiner or importer outside of the company.

(b) *Credit transfers.* (1) Gasoline benzene credits obtained from another refinery or importer may be used to comply with the gasoline benzene content requirement of § 80.1230(a) provided the following conditions are met:

(i) The credits are generated and reported according to the requirements of this subpart, and the transferred credits have not expired, per paragraph (c) of this section.

(ii) Any credit transfer takes place no later than the last day of February following the calendar year averaging period when the credits are used.

(iii) The credit has not been transferred more than twice. The first transfer by the refinery or importer that generated the credit may only be made to a refiner or importer that intends to use the credit; if the transferee cannot

use the credit, it may make the second, and final, transfer only to a refiner or importer that intends to use or to terminate the credit. In no case may a credit be transferred more than twice before being used or terminated.

(iv) The credit transferor has applied any gasoline benzene credits necessary to meet its own annual compliance requirements (including any deficit carried forward, pursuant to § 80.1230(c), if applicable) before transferring any gasoline benzene credits to any other refiner or importer.

(v) The credit transferor does not create a deficit as a result of a credit transfer.

(vi) The transferor supplies records to the transferee indicating the year the gasoline benzene credits were generated, the identity of the refiner (and refinery) or importer that generated the gasoline benzene credits, and the identity of the transferring entity if it is not the same entity that generated the gasoline benzene credits.

(2) In the case of gasoline benzene credits that have been calculated or created improperly, or that EPA has otherwise determined to be invalid, the following provisions apply:

(i) Invalid gasoline benzene credits cannot be used to achieve compliance with the gasoline benzene content requirement of § 80.1230(a), regardless of the transferee's good-faith belief that the gasoline benzene credits were valid.

(ii) The refiner or importer that used the gasoline benzene credits and any transferor of the gasoline benzene credits must adjust their credit records, reports, and compliance calculations as necessary to reflect the proper gasoline benzene credits.

(iii) Any properly created gasoline benzene credits existing in the transferor's credit balance following the corrections and adjustments specified in paragraph (b)(2)(ii) of this section must first be applied to correct the invalid transfers to the transferee, before the transferor uses, trades or banks the gasoline benzene credits.

(c) *Credit life.* (1)(i) Early credits, per § 80.1275, may be used for compliance purposes under § 80.1240(a) for any of the following annual averaging periods: 2011, 2102, 2013.